

# An Act

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SENATE BILL 92-36.

1992

BY SENATORS Bird, Traylor, Rizzuto, McCormick, Powers, Schroeder, Strickland, and Wells;  
also REPRESENTATIVES Grampsas, Neale, Romero, DeHerrera, and Pankey.

CONCERNING THE PROVISION OF DISASTER EMERGENCY SERVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-1-125, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended by the addition of the following new subsections to read:

24-1-125. Department of Local Affairs - Creation.

(7) (a) The Office of Emergency Management, created by Part 21 of Article 32 of Title 24. Shall constitute a part of the Division of Local Government in the Department of Local Affairs and shall exercise its powers and perform its duties and functions under the Department as if the same were transferred to such Department by a Type 2 transfer.

(b) The Division of Disaster Emergency Services in the Department of Public Safety, created by Section 24-1-128.6 (2) (e), and its powers, duties, and functions are transferred by a Type 3 transfer to the Department of Local Affairs and allocated to the Office of Emergency Management in the Division of Local Government, pursuant to the provisions of this Article, and the Division of Disaster Emergency Services in the Department of Public Safety is abolished.

(8) (a) The Colorado Emergency Planning Commission, created by Part 26 of Article 32 of this Title, shall exercise its powers and perform its duties and functions as if the same were transferred by a Type 2 transfer to the Department of

Local Affairs.

(b) The Colorado Emergency Planning Commission in the Department of Public Safety, created by Section 24-1-128.6 (3), and its powers, duties, and functions are transferred by a Type 3 transfer to the Department of Local Affairs, pursuant to the provisions of this Article, and the Colorado Emergency Planning Commission in the Department of Public Safety is abolished.

SECTION 2. 24-1-128.6 (2)(e) and (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are repealed as follows:

24-1-128.6. Department of Public Safety - Creation.

(2) The Department of Public Safety shall consist of the following divisions:

(e) deleted

(3) deleted

SECTION 3. 24-32-104 (1)(j), (k), and (l), Colorado Revised Statutes, 1988 Repl. Vol., are amended, and the said 24-32-104 (1) is further amended by the addition of a new paragraph, to read:

24-32-104. Functions of the Division.

(1) The Division shall perform the following functions:

(j) Provide technical assistance to district attorneys, including, but not limited to, coordination educational grants; and

(k) Effective January 1, 1985, provide an annual report to the general assembly of all taxing entities, as defined in Section 29-1-303 (1), C.R.S., which adopt the procedures set forth in section 29-1-303, C.R.S., for public disclosure of the property tax levy to be imposed by such taxing entities; and

- (1) Administer emergency services provided by the State.

SECTION 4. Part 1 of Article 32 of Title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended by the addition of a new Section to read:

24-32-113. Transfer of Functions and Property - Contracts - Continuation of Regulations.

(1) The Office of Emergency Management in the Division of Local Government, as created by Section 24-32-2105, shall, on and after the effective date of this Act, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the Division of Disaster Emergency Services in the Department of Public Safety prior to the effective date of this Act, concerning the duties and functions transferred to the Department of Local Affairs pursuant to the provisions of this Article.

(2) On the effective date of this Act all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Division of Disaster Emergency Services in the Department of Public Safety pertaining to the duties and functions transferred to the Department of Local Affairs pursuant to the provisions of Section 24-1-125 (7) are transferred to the Department of Local Affairs and become the property thereof.

(3) Whenever the Division of Disaster Emergency Services in the Department of Public Safety is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Local Affairs pursuant to this Article, such reference or designation shall be deemed to apply to the Office of Emergency Management in the Division of Local Government pursuant to this article. All contracts entered into by the Division of Disaster Emergency Services in the Department of Public Safety prior to the effective date of this Act in connection with the duties and functions transferred to the Department of Local Affairs pursuant to this Article are hereby validated, with the Office of Emergency Management created by this Article succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy obligations incurred pursuant to such contracts are hereby transferred and appropriated to the Department of Local Affairs for allocation to the Office of Emergency Management for the payment of such obligations.

(4) Any rules and regulations of the Division of Disaster Emergency Services in the Department of Public Safety prior to the effective date of this Act concerning the duties and functions transferred to the Department of Local Affairs pursuant to the provisions of this Article shall become the rules and regulations of the

Office of Emergency Management in the Division of Local Government on the effective date of this Act. Such rules and regulations shall be deemed to be continuous.

SECTION 5. Article 32 of Title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended by the addition of the following new parts to read:

PART 21  
OFFICE OF DISASTER EMERGENCY SERVICES

24-32-2101. Short Title. This Part 21 shall be known and may be cited as the "Colorado Disaster Emergency Act of 1992".

24-32-2102. Purposes and limitations.

(1) The purposes of this Part 21 are to:

(a) Reduce vulnerability of People and Communities of this State to damage, injury, and loss of life and property resulting from natural catastrophes or catastrophes of human origin, civil disturbance, or hostile military or paramilitary action;

(b) Prepare for prompt and efficient search, rescue, recovery, care, and treatment of persons lost, entrapped, victimized, or threatened by disasters or emergencies;

(c) Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters;

(d) Clarify and strengthen the roles of the Governor, State Agencies, and Local Governments in prevention of, preparation for, response to, and recovery from disasters;

(e) Authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;

(f) Authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of this State and similar State-Local, Interstate, Federal-State, and Foreign activities in which the State and its political subdivisions may participate;

(g) Provide a disaster and emergency management system embodying all aspects of predisaster and preemergency preparedness and postdisaster and postemergency response; and

\_\_\_\_\_ (h) Assist in prevention of disasters caused or aggravated by inadequate planning for regulation of public and private facilities and land use.

(2) Nothing in this Part 21 shall be construed to:

(a) Interfere with the course or conduct of a labor dispute; except that actions otherwise authorized by this Part 21 or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(b) Interfere with dissemination of news or comment on public affairs; except that any communications facility or organization, including but not limited to radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;

(c). Affect the jurisdiction or responsibilities of Police Forces, Fire-Fighting Forces, or units of the Armed Forces of the United States or of any personnel thereof, when on active duty; except that State, Local, and Interjurisdictional disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or

(d) Limit, modify, or abridge the authority of the Governor to proclaim Martial Law or exercise any other powers vested in the Governor under the Constitution, Statutes, or Common Law of this State independent of, or in conjunction with, any provision of this Part 21.

24-32-2103. Definitions. As used in this Part 21, unless the context otherwise requires:

(1) “Disaster” means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, or hostile military or paramilitary action.

(2) “Political Subdivision” means any County, City and County, City, or Town and may include any other agency designated by law as a political subdivision of the State.

(3) “Search and Rescue” means the employment, coordination, and

utilization of available resources and personnel in locating, relieving distress and preserving life of, and removing survivors from the site of a disaster, emergency, or hazard to a place of safety in case of lost, stranded, entrapped, or injured persons.

24-32-2104. The Governor and Disaster Emergencies.

(1) The Governor is responsible for meeting the dangers to the State and People presented by disasters.

(2) Under this Part 21, the Governor may issue Executive Orders, Proclamations, and Regulations and amend or rescind them. Executive Orders, Proclamations, and Regulations have the force and effect of law.

(3) (a) There is hereby created a Governor's Disaster Emergency Council, referred to in this Part 21 as the "Council", consisting of not less than six nor more than nine members. The Attorney General, the Adjutant General, and the Executive Directors of the following Departments shall be Members: Administration, Transportation, Public Safety, and Natural Resources. The additional Members, if any, shall be appointed by the Governor from among the Executive Directors of the other Departments. The Governor shall serve as Chairman of the Council, and majority shall constitute a quorum. The Council shall meet at the call of the Governor and shall advise the Governor and the Director of the Office of Emergency Management on all matters pertaining to the declaration of disasters and the disaster response and recovery activities of the State Government: except that nothing in the duties of the Council shall be construed to limit the authority of the Governor to act without the advice of the Council when the situation calls for prompt and timely action when disaster threatens or exists.

(b) The Members of the Governor's Disaster Emergency Council, as such existed prior to the effective date of this Act, shall become the initial members of the Council on the effective date of this Act.

(c). A Disaster Emergency shall be declared by Executive Order or Proclamation of the Governor if the Governor finds a disaster has occurred or that this occurrence or the threat thereof is imminent. The State of Disaster Emergency shall continue until the Governor finds that the threat of danger has passed or that the disaster has been dealt with to the extent that emergency conditions no longer exist and the Governor terminates the State of Disaster Emergency by Executive Order or Proclamation, but no State of Disaster Emergency may continue for longer than thirty days unless renewed by the Governor. The General Assembly, by Joint Resolution, may terminate a State of Disaster Emergency at any time, thereupon, the Governor shall issue an Executive Order or Proclamation ending the State of Disaster Emergency. All Executive Orders or Proclamations issued under this Subsection (4) shall indicate the nature of the disaster, the area threatened, and the conditions which have brought it about or which make possible termination of the State of Disaster

Emergency. An Executive Order of Proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, shall be promptly filed with the Office of Emergency Management, the Secretary of State, and the County Clerk and Recorder and Disaster Agencies in the area to which it applies.

(5) An Executive Order or Proclamation of a State of Disaster Emergency shall activate the disaster response and recovery aspects of the State, Local and Interjurisdictional disaster emergency plans applicable to the Political Subdivision or area in question and shall be authority for the deployment and use of any forces to which the plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this Part 21 or any other provision of law relating to Disaster Emergencies.

(6) During the continuance of any State of Disaster Emergency, the Governor is Commander-in-Chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the Governor shall delegate or assign Command Authority by prior arrangement embodied in appropriate Executive Orders or Regulations, but nothing in this Section restricts the Governor's authority to do so by Orders issued at the time of the Disaster Emergency.

(7) In addition to any other powers conferred upon the Governor by law, the Governor may:

(a) Suspend the provisions of any Regulatory Statute prescribing the procedures for conduct of State Business or the Orders, Rules, or Regulations of any State Agency, if strict compliance with the provision of any Statute, Order, Rule, or Regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(b) Utilize all available resources of the State Government and of each Political Subdivision of the State as reasonably necessary to cope with the Disaster Emergency;

(c). Transfer the direction, personnel, or functions of State Departments and Agencies or units thereof for the purpose of performing or facilitating emergency services;

(d) Subject to any applicable requirements for compensation under Section 24-32-2111, commandeer or utilize any private property if the Governor finds this necessary to cope with the Disaster Emergency;

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State if the Governor deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) Control ingress to and egress from a Disaster Area, the movement of persons within the Area, and the occupancy of premises therein;

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles; and

(I) Make provision for the availability and use of temporary emergency housing.

24-32-2105. Office of Emergency Management.

(1) (a) There is hereby created in the Division of Local Government the Office of Emergency Management, referred to in this Part 21 as the "Office". Pursuant to Section 13 of Article XII of the State Constitution, the Executive Director shall appoint a Director, referred to in this Part 21 as the "Director", as head of the Office.

(b) The Office of Emergency Management and the Office of the Director shall exercise their powers and perform their duties and functions under the Department of Local Affairs and the Executive Director as transferred to the Department by a Type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", Article 1 of this Title.

(2) The Division shall prepare and maintain a State Disaster Plan which complies with all applicable Federal and State Regulations and shall keep such plan current.

(3) The Office shall take part in the development and revision of Local and Interjurisdictional Disaster Plans prepared under Section 24-32-2107. To this end the Office shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to Political Subdivisions, their Disaster Agencies, and Interjurisdictional Planning and Disaster Agencies.



Such personnel shall consult with Political Subdivisions and Disaster Agencies and shall make field examinations.

(4) In preparing and revising the State Disaster Plan, the Office may seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(5) The State Disaster Plan or any part thereof may be incorporated in regulations of the Office or Executive Orders which have the force and effect of law.

(6) The Office may do all things necessary for the implementation of this Part 21, including but not limited to:

- (a) Hiring personnel;
- (b) Contracting with Federal, State, Local, and private entities;
- (c). Accepting and expending Federal Funds.

24-32-2106. Financing.

(1) It is the intent of the General Assembly and declared to be the Policy the State that funds to meet Disaster Emergencies shall always be available.

(2)(a) A Disaster Emergency Fund is hereby established which shall receive moneys appropriated thereto by the General Assembly. Moneys in the Disaster Emergency Fund shall remain therein until expended.

(b) Any moneys remaining in the Disaster Emergency Fund, as such Fund existed prior to the effective date of the Act, shall be transferred on the effective date of the Act to the Disaster Emergency Fund created by Paragraph (a) of the Subsection (2).

(3) The Council shall review in detail each expenditure of Disaster Emergency moneys.

(4) It is the legislative intent that first recourse be to funds regularly appropriated to State and Local Agencies. If the Governor finds that the demands placed upon these funds in coping with a particular Disaster are unreasonably great, the Governor may, with the concurrence of the Council, make funds available from the Disaster Emergency Fund. If moneys available from the Fund are insufficient, the Governor, with the concurrence of the Council, may transfer and expend moneys appropriated for other purposes.

(5) The Director is authorized to establish, pursuant to Article 4 of this Title, the Rules and Regulations which will govern the reimbursement of funds to State Agencies and Political Subdivisions and to promulgate such Regulations.

(6) Nothing in this Section shall be construed to limit the Governor's authority to apply for, administer, and expend Grants, Gifts or Payments in aid of Disaster prevention, preparedness, response, or recovery.

24-32-2107. Local and Interjurisdictional Disaster Agencies and Services.

(1) Each Political Subdivision shall be within the jurisdiction of and served by the Division and by a Local or Interjurisdictional Agency responsible for Disaster preparedness and coordination of response.

(2) Each County shall maintain a Disaster Agency or participate in a Local or Interjurisdictional Disaster Agency which, except as otherwise provided under this Part 21, has jurisdiction over and serves the entire County.

(3) The Governor shall determine which Municipal Corporations need Disaster Agencies of their own and require that they be established and maintained. The Governor shall make such determination on the basis of the Municipality's Disaster vulnerability and capability of response related to population size and concentration. The Disaster Agency of a County shall cooperate with the Disaster Agencies of Municipalities situated within its borders but shall not have jurisdiction within a Municipality having its own Disaster Agency. The Office shall publish and keep current a list of Municipalities required to have Disaster Agencies under this Subsection (3).

(4) The minimum composition of a Disaster Agency shall be a Director or Coordinator appointed and governed by the Chief Executive Office or governing body of the appointing jurisdiction. The Director or Coordinator shall be responsible for the planning and coordination of the Local Disaster Services.

(5) Any provision of this Part 21 or other Law to the contrary notwithstanding, the Governor may require a Political Subdivision to establish and maintain a Disaster Agency jointly with one or more contiguous Political Subdivisions if the Governor finds that the establishment and maintenance of an Agency or participation therein is made necessary by circumstances or conditions that make it unusually difficult to provide Disaster prevention, preparedness, response, or recovery services under other provisions of this Part 21.

(6) Each Political Subdivision which does not have a Disaster Agency and has not made arrangements to secure or participate in the services of an Agency shall have an elected Official designated as Liaison Officer to facilitate the cooperation

and protection of that Subdivision in the work of Disaster prevention, preparedness, response, and recovery.

(7) The Mayor, Chairman of the Board of County Commissioners, or other Principal Executive Officer of each Political Subdivision in the State shall notify the Office of the manner in which the Political Subdivision is providing or securing Disaster Planning and Emergency Services, identify the person who heads the Agency from which the services are obtained, and furnish additional information relating thereto as the Division requires.

(8) Each Local and Interjurisdictional Disaster Agency shall prepare and keep current a Local or Interjurisdictional Disaster Emergency Plan for its Area.

(9) The Local or Interjurisdictional Disaster Agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the Emergency Responsibilities of all Local Agencies and Officials and of the Disaster Chain of Command.

(10) The Sheriff of each County shall:

(a) Be the Official responsible for coordination of all search and rescue operations within the Sheriff's Jurisdiction;

(b) Make use of the search and rescue capability and resources available within the County and request assistance from the Office only when and if the Sheriff determines such additional assistance is required.

(11) When authorized by the Governor and Executive Director and approved by the Director, expenses incurred in meeting contingencies and emergencies arising from search and rescue operations may be reimbursed from the Disaster Emergency Fund.

(12) Any person providing information to a Local or Interjurisdictional Disaster Agency may request, in writing, that such information be disseminated only to persons connected with or involved in the preparation, update, or implementation of any Disaster Emergency Plan, and said information shall thereafter not be release to any person without the expressed written consent of the person providing the information.

24-32-2108. Establishment of Interjurisdictional Disaster Planning and Service Area.

(1) If the Governor finds that two or more adjoining Counties would be better served by and Interjurisdictional arrangement than by maintaining separate

Disaster Agencies and Services, the Governor may delineate by Executive Order an Interjurisdictional Area adequate to plan for, prevent, or respond to Disaster in that Area and direct steps to be taken as necessary including the creation of an Interjurisdictional Relationship, a Joint Disaster Emergency Plan, Mutual Aid, or an Area Organization for Emergency Planning and Services.

(2) A finding of the Governor pursuant to Subsection (1) of this Section shall be based on one or more factors related to the difficulty of maintaining an efficient and effective Disaster prevention, preparedness, response, and recovery system on a separate basis, such as:

(a) Small or sparse population;

(b) Limitations on public financial resources severe enough to make maintenance of a separate Disaster Agency and Services unreasonably burdensome;

(c). Unusual vulnerability to Disaster as evidenced by a past history of Disaster, topographical features, drainage characteristics, Disaster potential, and presence of Disaster-prone facilities or operations;

(d) The interrelated character of the Counties in a Multicounty Area; and

(e) Other relevant conditions or circumstances.

(3) If the Governor finds that a vulnerable Area lies only partly within this State and includes territory in another State or territory in a Foreign Jurisdiction and that it would be desirable to establish an Interstate or International Relationship or Mutual Aid or an Area Organization for Disaster, the Governor shall take steps to that end as desirable. If this Action is taken with Jurisdictions that have enacted the Interstate Civil Defense Disaster Compact, any resulting agreements may be considered supplemental agreements pursuant to Article VI of such Compact.

(4) If the other Jurisdictions with which the Governor proposes to cooperate pursuant to Subsection (3) of this Section have not enacted the Interstate Civil Defense and Disaster Compact, the Governor may negotiate special agreements with such Jurisdictions. Any agreement, if sufficient authority for the making thereof does not otherwise exist, becomes effective only after its text has been communicated to the General Assembly and if neither House of the General Assembly has disapproved it before adjournment sine die of the next ensuing Session competent to consider it or within thirty days of its submission, whichever is longer.

24-32-2109. Local Disaster Emergencies.

(1) A Local Disaster may be declared only by the Principal Executive Officer of a Political Subdivision. It shall not be continued or renewed for a period in excess of seven days except by or with the consent of the Governing Board of the Political Subdivision. Any Order or Proclamation declaring, continuing, or terminating a Local Disaster Emergency shall be given prompt and general publicity and shall be filed promptly with the County Clerk and Recorder, City Clerk, or other authorized record-keeping Agency and with the Office.

(2) The effect of a Declaration of a Local Disaster Emergency is to activate the response and recovery aspects of any and all applicable Local and Interjurisdictional Disaster Emergency Plans and to authorize the furnishing of Aid and Assistance under such Plans.

(3) No Interjurisdictional Disaster Agency or Official thereof may declare a Local Disaster Emergency unless expressly authorized by the agreement pursuant to which the Agency functions. An Interjurisdictional Disaster Agency shall provide Aid and Services in accordance with the agreement pursuant to which it functions.

24-32-2110. Disaster Prevention.

(1) In addition to Disaster prevention measures as included in the State, Local and Interjurisdictional Disaster Emergency Plans, the Governor shall consider steps that could be taken on a continuing basis to prevent or reduce the harmful consequences of Disasters. At the Governor's direction, and pursuant to any other authority and competence they have, State Agencies, including but not limited to those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards, shall make studies of matters related to Disaster prevention. The Governor and the Executive Director, from time to time, shall make recommendations to the General Assembly, Local Governments, and such other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of Disasters.

(2) All State Departments, in conjunction with the Office, shall conduct studies and adopt measures to reduce the impact of, and actions contributory to, a Disaster. The studies shall concentrate on means of reducing or avoiding the dangers caused by such occurrences or the consequences thereof.

(3) If the Office believes on the basis of the studies or other competent evidence that an Area is susceptible to a Disaster of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that Area are inadequate and could add substantially to the magnitude of the Disaster, and that changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of this Section, it shall specify the essential changes to the Executive Director and to the Governor. If the Governor upon review of the recommendations finds after public hearing that the changes are essential, the Governor shall so recommend to the Agencies or Local Governments with jurisdictions over the Area and subject matter. If no action or insufficient action pursuant to the Governor's recommendations is taken within the time specified by the Governor, the Governor shall so inform the General Assembly and request legislative action appropriate to mitigate the impact of Disaster.

(4) The Governor, at the same time that the Governor makes recommendations pursuant to Subsection (3) of this Section, may suspend the standard or control which the Governor finds to be inadequate to protect the public safety and by Regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by Joint Resolution of both Houses of the General Assembly or amended by the Governor. During the time it is in effect, the standard or control contained in the Governor's Regulation shall be administered and given full effect by all relevant regulatory agencies of the State and Local Governments to which it applies. The Governor's action is subject to judicial review but shall not be subject to temporary stay pending litigation.

24-32-2111. Compensation - Liability When Combating Grasshopper Infestation.

(1) Each person within this State shall conduct himself or herself and keep and manage such person's affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the State and the public successfully to meet Disasters or Emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of Disaster Emergency. This Part 21 neither increases nor decreases these obligations but recognizes their existence under the Constitution and Statutes of this State and the Common Law. Compensation for services or for the taking or use of property shall be only to the extent that the obligations recognized in this Subsection (1) are exceeded in a particular case and then only to the extent that the claimant has not volunteered such claimant's services or property without compensation.

(2) No personal services may be compensated by the State or any Subdivision or Agency thereof, except pursuant to Statute or Local Law or Ordinance.

(3) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with a Disaster Emergency and its use or destruction was ordered by the Governor or a member of the Disaster Emergency Forces of this State.

(4) The amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to Eminent Domain Procedures, as provided in Articles 1 to 7 of Title 38, C.R.S.

(5) Nothing in this Section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a firebreak or applies to the release of waters or the breach or impoundments in order to reduce pressure or other danger from actual or threatened flood.

(6) The State and its Agencies and Political Subdivisions and the Officers and Employees of the State and its Agencies and Political Subdivisions shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform an act relating to the combating of grasshopper infestation of this State except for negligence or willful disregard of the rights of others, and then only to the extent of One Hundred Thousand Dollars for any injury to or damage suffered by one person and the sum of Three Hundred Thousand Dollars for an injury to or damage suffered by two or more persons in any single occurrence; except that, in such latter instance, no person may recover in excess of One Hundred Thousand Dollars. This Subsection (6) is the total extent of liability of the State and its Agencies and Political Subdivisions and the Officers and Employees of the State and its Agencies and Political Subdivisions with regard to the combating of grasshopper infestation of the State and abrogates any Common Law Cause of Action thereto. Except to the extent of insurance coverage, no person acting as a Contractor with the State or any of its Political Subdivisions, or any Officer or Employee of such Contractor, shall be liable on any claim alleging strict liability on Contract or Tort for actions taken relating to combating grasshopper infestation of the State under this Part 21 or under House Bill No. 1001, enacted at the Second Extraordinary Session of the Fifty-First General Assembly.

24-32-2112. Telecommunications. The State Telecommunications Director, working in coordination with the Office, shall ascertain what means exist for rapid and efficient telecommunications in time of Disaster Emergencies. Operational characteristics of the available systems of telecommunications shall be evaluated by the Office, and recommendations for modifications shall be made to the State Telecommunications Director. It is the intent of this Section that adequate means of telecommunications be available for use during Disaster Emergencies.

24-32-2113. Mutual Aid.

(1) Political Subdivisions not participating in Interjurisdictional arrangements pursuant to this Part 21 nevertheless shall be encouraged and assisted by the Office to conclude suitable arrangements for furnishing Mutual Aid in coping with Disasters. The arrangements shall include provision of Aid by persons and units in public employ.

(2) In passing upon Local Disaster Plans, the Governor shall consider whether such Plans contain adequate provisions for the rendering and receipt of Mutual Aid.

(3) It is a sufficient reason for the Governor to require an Interjurisdictional agreement or arrangement pursuant to Section 24-32-2108 that the Area involved and Political Subdivisions therein have available equipment, supplies, and forces necessary to provide Mutual Aid on a regional basis and that the Political Subdivisions have not already made adequate provision for Mutual Aid; except that, in requiring the making of an Interjurisdictional arrangement to accomplish the purpose of this Section, the Governor need not require establishment and maintenance of an Interjurisdictional Agency or arrangement for any other Disaster purposes.

24-32-2114. Weather Modification. The Office shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a Disaster. If the Office determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a Disaster, it shall recommend to the Executive Director of the Department of Natural Resources, empowered to issue permits for weather modification operations under Article 20 of Title 36, C.R.S., to warn those organizations or agencies engaged in weather modification to suspend their operations until the danger has passed or recommend that said Executive Director modify the terms of any permit as may be necessary.

24-32-2115. Merit System Council. The Merit System Council of the Department of Social Services shall provide personnel services as described in Section 26-1-120 (4) and (5), C.R.S., to Civil Defense Employees of the Political Subdivisions of the State, except where such employees are covered by another federally approved merit system.



PART 22  
COMPENSATION BENEFITS TO  
VOLUNTEER CIVIL DEFENSE WORKERS

24-32-2201. Legislative Declaration. It is the policy and purpose of this Part 22 to provide a means of compensating volunteer civil defense workers who may suffer any injury as defined in Section 24-32-2202 (4) as a result of participation in civil defense service.

24-32-2202. Definitions. As used in this Part 22, unless the context otherwise requires:

(1) “Accredited Local Organization For Civil Defense” means a Local Organization for Civil Defense which is certified by the Office of Emergency Management as conforming with the “Plan and Program for the Civil Defense of this State” prepared by the Governor of Colorado or under the Governor’s direction. A Local Organization for Civil Defense remains accredited only while the Certificate of the Colorado State Civil Defense Agency is in effect and is not revoked.

(2) “Civil Defense Service” means all activities authorized by and carried on pursuant to the provisions of the “Colorado Disaster Emergency Act of 1992”, Part 21 of this Article, including training necessary or proper to engage in such activities.

(3) “Civil Defense Worker” means any natural person who is registered with the Office of Emergency Management or with a Local Organization for Civil Defense for the purpose of engaging in civil defense service pursuant to the provisions of this Part 22 without pay or other consideration.

(4) “Injury” means and includes all accidental injuries and all occupational diseases recognized and compensated by the “Workers’ Compensation Act of Colorado”, Articles 40 to 47 of Title 8, C.R.S.

(5) “Local Organization for Civil Defense” means a public agency which is empowered to register and direct the activities of civil defense workers within the area of the County or City or any part thereof and is thus, because of such registration and direction, acting as an instrumentality of the State in aid of the carrying out of the General Governmental Functions and Policy of the State and includes a Local Organization for Civil Defense established by Ordinance.

24-32-2203. Compensation For Injury Limited. Except as provided in this Part 22, a Civil Defense Worker and such Civil Defense Worker's Dependents shall have no right to receive compensation from the State, from the Office of Emergency Management, from the Local Organization for Civil Defense with which such Civil Defense Worker is registered, or from the County or City which has empowered the Local Organization for Civil Defense to register such Civil Defense Worker and direct such Civil Defense Worker's activities for an injury arising out of and occurring in the course of such Civil Defense Worker's activities as a Civil Defense Worker.

24-32-2204. Compensation Provided is Exclusive. Compensation provided by this Part 22, as limited by the Provisions of this Part 22, is the exclusive remedy of a Civil Defense Worker or such Civil Defense Worker's Dependents for injury or death arising out of and in the course of such Civil Defense Worker's activities as a Civil Defense Worker as against the State, the Office of Emergency Management, the Local Organization for Civil Defense with which such Civil Defense Worker is registered, and the County or City which has empowered the Local Organization for Civil Defense to register such Civil Defense Worker and direct such Civil Defense Worker's activities. Liability for the compensation provided by this Part 22, as limited by the Provisions of this Part 22, is in lieu of any other liability whatsoever to a Civil Defense Worker or such Civil Defense Worker's Dependents or any other person on the part of the State, the Office of Emergency Management, the Local Organization for Civil Defense with which the Civil Defense Worker is registered, and the County or City which as empowered the Local Organization for Civil Defense to register such Civil Defense Worker and direct such Civil Defense Worker's activities for injury or death arising out of and in the course of such Civil Defense Worker's activities as a Civil Defense Worker.

24-32-2205. Compensation For Death Or Injury.

(1) Compensation shall be furnished to a Civil Defense Worker either within or without the State for any injury arising out of and occurring in the course of such Civil Defense Worker's activities as a Civil Defense Worker and for the death of any such worker if the injury proximately causes death in those cases where the following conditions occur:

(a) Where, at the time of the injury, the Civil Defense Worker is performing services as a Civil Defense Worker and is acting within the course of such Civil Defense Worker's duties as a Civil Defense Worker;

(b) Where, at the time of the injury, the Local Organization for Civil Defense with which the Civil Defense Worker is registered is an Accredited Local Organization for Civil Defense. If the Civil Defense Worker is registered with the Office of Emergency Management and is at the time of the injury performing services

for said Office and is acting within the course of such Civil Defense Worker's duties as a Civil Defense Worker for said Office, registration with an Accredited Local Organization for Civil Defense is not required.

(c). Where the injury is proximately caused by such Civil Defense Worker's service as a Civil Defense Worker, either with or without negligence;

(d) Where the injury is not caused by the intoxication of the injured Civil Defense Worker; and

(e) Where the injury is not intentionally self-inflicted.

24-32-2206. Benefits Limited To Appropriation. No compensation or benefits shall be paid or furnished to Civil Defense Workers or their Dependents pursuant to the provisions of this Part 22 except from moneys appropriated for the purpose of furnishing compensation and benefits to Civil Defense Workers and their Dependents. Liability for the payment or furnishing of compensation and benefits is dependent upon and limited to the availability of moneys so appropriated.

24-32-2207. Benefits Depend On Reserve. After all money so appropriated is expended or set aside in bookkeeping reserves for the payment or furnishing of compensation and benefits and reimbursing the Colorado Compensation Insurance Authority Fund for its services, the payment or furnishing of compensation and benefits for an injury to a Civil Defense Worker or such Civil Defense Worker's Dependents is dependent upon there having been a reserve set up for the payment or furnishing of compensation and benefits to such Civil Defense Worker or such Civil Defense Worker's Dependents for that injury, and liability is limited to the amount of the reserve. The excess in a reserve for the payment or furnishing of compensation and benefits or for reimbursing the Colorado Compensation Insurance Authority Fund for its services may be transferred to reserves of other Civil Defense Workers for the payment or furnishing of compensation and benefits and reimbursing the Colorado Compensation Insurance Authority Fund or may be used to set up reserves for other Civil Defense Workers.

24-32-2208. Workers' Compensation Law Applies. Insofar as not inconsistent with the Provisions of this Part 22, all of the Provisions of the "Workers' Compensation Act of Colorado" shall apply to Civil Defense Workers and their Dependents and to the furnishing of compensation and medical, dental, and funeral benefits to them or their Dependents. "Employee", as used in said Act, includes a Civil Defense Worker when liability for the furnishing of the compensation and benefits exists pursuant to the Provisions of this Part 22 and as limited by the Provisions of this Part 22. Where liability for compensation and benefits exists, such compensation and benefits shall be provided in accordance with the applicable Provisions of the "Workers' Compensation Act of Colorado" and at the maximum

rate provided therein, subject to the limitations set forth in this Part 22.

24-32-2209. Agreement For Disposition Of Claims. The Office of Emergency Management and the Colorado Compensation Insurance Authority shall enter into an agreement requiring the Colorado Compensation Insurance Authority, as adjusting agent, to adjust and dispose of claims and furnish compensation to Civil Defense Workers and their Dependents. The agreement shall authorize the Colorado Compensation Insurance Authority Fund to make all expenditures, including payments to claimants for compensation or for the adjustment or settlement of claims. Nothing in this Part 22 shall be construed to mean that the Colorado Compensation Insurance Authority or its officers or agents have the final decision with respect to the compensability of any case or the amount of compensation or benefits due. Any Civil Defense Worker or such Civil Defense Worker's Dependents shall have the same right to hearings before the Division of Labor in the Department of Labor and Employment and its referees and to appeal from awards of said Division and referees to the Industrial Claim Appeals Panel and to the Courts as is provided in the Hearing and Review Procedures of the "Workers's Compensation Act of Colorado" found in Article 43 of Title 8, C.R.S., subject to the limitations prescribed in this Part 22.

24-32-2210. Reimbursement Of Fund. The agreement shall provide that the Colorado Compensation Insurance Authority Fund shall be reimbursed for the expenditures made as adjusting agent and for the cost of services rendered, which reimbursement shall be made out of money appropriated for the purpose of furnishing compensation to Civil Defense Workers. The reimbursement for cost of services rendered shall not exceed twelve and one-half percent of the total expenditures for medical and dental treatment and disability and death payments made by the Colorado Compensation Insurance Authority Fund in the adjustment of claims arising under this Part 22. The agreement shall provide for the setting up of bookkeeping reserves in order that provisions may be made for the reimbursement of the Colorado Compensation Insurance Authority Fund and that liability for the payment or furnishing of compensation may be determined. The agreement shall also provide that the Colorado Compensation Insurance Authority shall be notified promptly by the Office of Emergency Management when a Local Organization for Civil Defense is certified as an Accredited Local Organization for Civil Defense and when the certification is revoked.

24-32-2211. Parties To Agreement. An Accredited Local Organization for Civil Defense and the County, Town, or City which has empowered the Local Organization for Civil Defense to register and direct activities of Civil Defense Workers automatically become parties to the agreement upon the Local Organization for Civil Defense becoming an Accredited Local Organization for Civil Defense.

24-32-2212. Other Provisions of Agreement. The Agreement may also contain any other provision not inconsistent with this Part 22 deemed necessary by the Office of Emergency Management and the Colorado Compensation Insurance Authority for the furnishing of compensation to Civil Defense Workers and their Dependents in accordance with the provisions of this Part 22 and the serving by the Colorado Compensation Insurance Authority as adjusting agent. The agreement may be modified by action of the Office of Emergency Management and the Colorado Compensation Insurance Authority.

24-32-2213. Power of Recover - Use of Recovered Amounts. The Colorado Compensation Insurance Authority may, in its own name or in the name of the Office of Emergency Management, or both, do any and all things necessary to recover on behalf of the Office of Emergency Management any and all amounts which an employer or insurance carrier might recover under the provisions of Section 8-41-203, C.R.S. All amounts so recovered shall be used for the furnishing of compensation benefits, and the agreement shall provide for the reimbursing of the Colorado Compensation Insurance Authority Fund for expense incurred in recovering such amounts and the manner in which such amounts shall be applied to the furnishing of compensation.

24-32-2214. Federal Benefits Deducted. Should the United States Government or any agent thereof, in accordance with any Federal Statute or Rule or Regulation, furnish monetary assistance, benefits, or other temporary or permanent relief to Civil Defense Workers or their Dependents for injuries arising out of and occurring in the course of their activities as Civil Defense Workers, the amount of compensation which any Civil Defense Worker or such Civil Defense Worker's Dependents are otherwise entitled to receive from the State of Colorado as provided in this Part 22 shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief such Civil Defense Worker or such Civil Defense Worker's Dependents have received and will receive from the United States or any agent thereof as a result of the injury.

24-32-2215. State Medical Aid Denied - When. If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States Government or any agent thereof furnishes medical, surgical, or hospital treatment or any combination thereof to an injured Civil Defense Worker, such Civil Defense Worker has no right to receive similar medical, surgical, or hospital treatment as provided in this Part 22; except that the Colorado Compensation Insurance Authority, as adjusting agent of the Office of Emergency Management, may furnish medical, surgical, or hospital treatment as part of the compensation provided under the provisions of this Part 22.

24-32-2216. Medical Benefits As Part Of Compensation. If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States Government or any agent thereof will reimburse a Civil Defense Worker or such Civil Defense Worker's Dependents for medical, surgical, or hospital treatment or any combination thereof furnished to such injured Civil Defense Worker, the Civil Defense Worker has no right to receive similar medical, surgical, or hospital treatment as provided in this Part 22, but the Colorado Compensation Insurance Authority, as adjusting agent of the Office of Emergency Management, may furnish medical, surgical, or hospital treatment as part of the compensation provided under the provisions of this Part 22 and apply to the United States Government or its agent for the reimbursement which will be made to the Civil Defense Worker or such Civil Defense Worker's Dependents. As a condition to the furnishing of such medical, surgical, or hospital treatment, the Colorado Compensation Insurance Authority shall require the Civil Defense Worker and such Civil Defense Worker's Dependents to assign to the State of Colorado, for the purpose of reimbursing for any medical, surgical, or hospital treatment furnished or to be furnished by the State, any privilege or right such Civil Defense Worker or such Civil Defense Worker's Dependents may have to reimbursement from the United States Government or any agent thereof.

24-32-2217. State Benefits Barred - When. If the furnishing of compensation under the provisions of this Part 22 and the Acts referred to in this Part 22 to a Civil Defense Worker or such Civil Defense Worker's Dependents prevents such Civil Defense Worker or such Civil Defense Worker's Dependents from receiving assistance, benefits, or other temporary or permanent relief under the provisions of a Federal Statute or Rule or Regulation, the Civil Defense Worker and such Civil Defense Worker's Dependents have no right to and shall not receive any compensation from the State of Colorado under the provisions of this Part 22 and the Acts referred to in this Part 22 for any injury for which the United States Government or any agent thereof will furnish assistance, benefits, or other temporary or permanent relief in the absence of the furnishing of compensation by the State of Colorado.

24-32-2218. Classes Of Workers - Registration - Duties. The Office of Emergency Management shall establish by Rule and Regulation various classes of Civil Defense Workers and the scope of the duties of each class. The Office of Emergency Management shall also adopt Rules and Regulations prescribing the manner in which Civil Defense Workers of each class are to be registered. All such Rules and Regulations shall be designed to facilitate the paying of Workers' Compensation.

24-32-2219. Accrediting Local Organization. Any Local Organization for Civil Defense which both agrees to follow the Rules and Regulations established by the Office of Emergency Management pursuant to the provisions of this Part 22 and substantially complies with such Rules and Regulations shall be certified by the Office of Emergency Management. Upon making the certification, not before, the Local Organization for Civil Defense becomes an Accredited Local Organization for Civil Defense.

24-32-2220. Accredited Status Lost - When. If an Accredited Local Organization for Civil Defense fails to comply with the Rules and Regulations of the Office of Emergency Management in any material degree, the Office of Emergency Management may revoke the certification, and upon the Act of Revocation the Local Organization for Civil Defense shall lose its accredited status. It may again become an Accredited Local Organization for Civil Defense in the same manner as is provided for a Local Organization for Civil Defense which a has not had its certificate revoked.

24-32-2221. Transfer of Moneys. Not less often than once each ninety days, the Treasurer of the State of Colorado upon the written request of the Colorado Compensation Insurance Authority shall transfer to the account of the Colorado Compensation Insurance Authority Fund from the sum appropriated by the General Assembly for the payment of claims which may arise under this Part 22 such sum as may be required to reimburse the Colorado Compensation Insurance Authority Fund in full for any sum theretofore paid by said Colorado Compensation Insurance Authority Fund on any claims arising under the provisions of this Part 22, together with any expense incurred by the Colorado Compensation Insurance Authority in adjusting same as provided in this Part 22, and such amount as may be estimated by said Colorado Compensation Insurance Authority Fund as being necessary to carry said claims to maturity and insure the full payment thereof. The requests of the Colorado Compensation Insurance Authority from time to time for the transfer of moneys as provided in this Section shall cite this Part 22 as authority for such transfer and shall be made upon such form as the Treasurer of the State of Colorado and the controller may prescribe or, in the absence of the prescribing of special forms, upon a voucher citing this Part 22 as authority.

PART 23  
CIVIL DEFENSE LIABILITY - PUBLIC OR PRIVATE

24-32-2301. Short Title. This Part 23 shall be known and may be cited as the "Civil Defense Liability Act".

24-32-2302. Legislative Declaration - No Private Liability.

(1) It is declared to be the policy of the General Assembly to encourage the owners of any building, mine, structure, or other real estate to make such property available, without compensation, for Civil Defense, and for that purpose this Section is enacted.

(2) No person, limited liability company, partnership, corporation, or association shall be civilly liable, except for willful and wanton acts, for the death or injury of any person or the injury to or loss of any property which may occur in or on the property of such person, limited liability company, partnership, corporation, or association resulting from any preparation, drill, exercise, use in an Official Alert, or inspection incidental to a Civil Defense activity. This exemption from liability extends to any owner, tenant, lessee, assignee, or successor in interest of any property used for Civil Defense purposes, together with his or her personal representatives, heirs successors and assigns.

24-32-2303. State Liability. All legal liabilities for damages, not only to property under the provisions of the Constitution of the State of Colorado but also for death or injury to any person, except a Civil Defense Worker regularly enrolled and acting as such, caused by acts done or attempted under the color of the "Colorado Disaster Emergency Act of 1992", Part 21 of this Article, in a bona fide attempt to comply therewith, shall be the obligation of the State of Colorado. Permission is given for suits against the State, as if any ordinary corporation, for recovery of compensation in that behalf, and for the indemnification of any person appointed and regularly enrolled as a civilian defense worker while actually engaged in Civil Defense duties or as a member of any agency of the State or Political Subdivision thereof engaged in civilian defense activity, or such person's dependents, as an aspect of damage done to such person's private property, or judgment against such person for acts done in good faith attempts in compliance with this Part 23. The foregoing shall not be construed to result in indemnification in any case of willful misconduct, gross negligence, or bad faith on the part of any agent of civilian defense. Should the United States Government or any agency thereof, in accordance with any Federal Statute, Rule, or Regulation, provide for the payment of damages to property or for death or injury as provided for in this Section, then and in that event, there shall be no liability or obligation whatsoever upon the part of the State of Colorado for any such damage, death, or injury for which the United States Government



assumes liability.

24-32-2304. Recovery For Personal Injury.

(1) Recovery for the injury or death of persons appointed and regularly enrolled in a Civil Defense Organization as contemplated by the "Colorado Disaster Emergency Act of 1992", Part 21 of this Article, while actually engaged in Civil Defense duties shall be limited to the provisions of the "Workers' Compensation Act of Colorado", Articles 40 to 47 of Title 8, C.R.S. If such persons are regularly employed by the State of Colorado or its Political Subdivisions, and, if such persons are volunteer Civil Defense Workers, shall be limited as otherwise provided by Statute.

(2) The provisions of Subsection (1) of this Section shall not affect the right of any person to receive benefits of compensation to which such person might be entitled under any Workers' Compensation or Pension Law or any Act of Congress.

PART 24  
EVACUATION OF SCHOOL BUILDINGS  
FOR CIVIL DEFENSE

24-32-2401. Evacuation Plan Agreements. Any Board of Education of any School District in the State of Colorado may enter into an agreement with the appropriate Local Civil Defense Agency or Authorities for the purpose of establishing an orderly plan for the evacuation of any or all school buildings within the jurisdiction of said School District.

24-32-2402. Evacuation Drill - District Liability. In the event that such School District and the respective Local Civil Defense Agency or Authorities desire to perform an evacuation drill for any or all school buildings, the Board of Education of such School District and its officers, employees, and agents participating therein shall be relieved of all liability, except as otherwise provided by Article 10 of this Title, with regard to the accidental injury of any pupil during school hours from the time that the pupil leaves the school building until such pupil's return to the building at the conclusion of the Evacuation Drill.

24-32-2403. Buses Used. For drill or other evacuation purposes as described in this Part 24, buses and such other modes of transport as are operated by the respective School District for the transportation of pupils may be operated by the District outside the boundaries of the District.

24-32-2404. Liability Insurance. For purposes of this Part 24, a School District may expend available funds to utilize the services of its employees or properties and may, if the Board of Education so desires, pay premiums from available funds to procure liability and property damage insurance covering such District, its governing body, officers, and employees, and, if deemed necessary or desirable, volunteer workers while participating in such Civil Defense activity, but there shall be no right of contribution of the part of such District to the insurance carrier.

24-32-2405. Extraterritorial Powers. When the officers, employees, or agents of any School District participating in any Civil Defense exercise in connection with the provisions of this Part 24 are required to go beyond the territorial limits of such Political Subdivision, such persons shall nevertheless have the same powers, duties, rights, privileges, and immunities while beyond the territorial limits of the School District as if they were performing their duties within the territorial limits of such District.

## PART 25 DISASTER RELIEF

24-32-2501. Power To Make Rules. The Governor is authorized to make Rules and Regulations necessary to carry out the purposes of this Part 25, including, but not limited to, standards of eligibility for persons applying for benefits; procedures for applying and administration; methods of investigating, filing, and approving applications; and formation of local or statewide boards to pass upon applications and procedures for appeal.

24-32-2502. Emergency Relief.

(1) In an Emergency, the Governor may provide assistance to save lives and to protect property and public health and safety.

(2) The Governor may provide such Emergency assistance by directing State agencies to provide technical assistance and advisory personnel to the affected State and Local Governments in giving:

(a) Aid in the performance of essential community services, warning of further risks and hazards, public information and assistance in health and safety measures, technical advice on management and control, and reduction of immediate

threats to public health and safety; and

(b) Assistance in the distribution of medicine, food, and other consumable supplies or emergency assistance.

(3) In addition, in any Emergency, the Governor is authorized to provide such other assistance under this Part 25 as the Governor deems appropriate.

24-32-2503. False Claims - Penalties. Any person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this Part 25 and who thereby receives assistance to which such person is not entitled commits a Class 6 Felony and shall be punished as provided in Section 18-1-105, C.R.S.

24-32-2504. Temporary Housing For Disaster Victims.

(1) Whenever the Governor has proclaimed a Disaster Emergency under the Laws of this State or the President of the United States has declared an Emergency or a Major Disaster to exist in this State, the Governor is authorized:

(a) To enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by Disaster Victims and to make such units available to any Political Subdivision of the State;

(b) To assist any Political Subdivision of the State which is the locus of temporary housing for Disaster Victims to acquire sites necessary for such temporary housing and to do all things required to prepare such sites to receive and utilize temporary housing units by:

(I) Advancing or lending funds available to the Governor from any appropriation made by the General Assembly or from any other source;

(II) Passing through funds made available by any agency, public or private; or

(III) Becoming a copartner with the Political Subdivision for the execution and performance of any temporary housing project for Disaster Victims; and

(c). Under such Regulation as the Governor shall prescribe, to temporarily suspend or modify for not to exceed Sixty days any public health, safety, zoning, transportation within or across the State, or other requirement of Law or Regulation within this State when by Proclamation the Governor deems such suspension or modification essential to provide temporary housing for Disaster Victims.

(2) Any Political Subdivision of the State is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for Disaster Victims and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, which are necessary to prepare or equip such sites to utilize the housing units.

24-32-2505. Debris Removal.

(1) Whenever the Governor has declared a Disaster Emergency to exist under the Laws of this State or the President of the United States, at the request of the Governor, has declared a Major Disaster or Emergency to exist in this State, the Governor is authorized:

(a) Notwithstanding any other provision of the Law, through the use of State Departments or Agencies or the use of any of the State's instrumentalities, to clear or remove from publicly or privately owned land or water debris and wreckage which may threaten public health or safety or public or private property; and

(b) To accept funds from the Federal Government and to utilize such funds to make Grants to any Local Government for the purpose of removing debris or wreckage from publicly or privately owned land or water.

(2) Authority under this Part 25 shall not be exercised unless the affected Local Government, corporation, organization, or individual first presents an unconditional authorization for removal of such debris or wreckage from public or private property and, in the case of removal of debris or wreckage from private property, first agrees to indemnify the State Government against any claim arising from such removal.

(3) Whenever the Governor provides for clearance of debris or wreckage pursuant to Subsections (1) and (2) of this Section, employees of the designated State Agencies or individuals appointed by the State are authorized to enter upon private land or water and perform any tasks necessary to removal or clearance operations.

24-32-2506. Grants To Individuals.

(1) Whenever the President of the United States, at the request of the Governor, has declared a Major Disaster to exist in this State, the Governor is authorized, upon the Governor's determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a Major Disaster which cannot be otherwise adequately met from other means of assistance, to accept a Grant from the Federal Government to

fund such financial assistance, subject to such terms and conditions as may be imposed upon the Grant.

(2) Notwithstanding any other provision of Law or Regulation, the Governor is authorized to make financial Grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a Major Disaster which cannot otherwise adequately be met from other means of assistance, which Grants shall not exceed Five Thousand Dollars in the aggregate to an individual or family in any single Major Disaster declared by the President.

24-32-2507. Community Loans.

(1) Whenever, at the request of the Governor, the President of the United States has declared a Major Disaster to exist in this State, the Governor is authorized:

(a) Upon the Governor's determination that a Local Government of the State will suffer a substantial loss of tax and other revenues from a Major Disaster and has demonstrated a need for financial assistance to perform its Governmental functions, to apply to the Federal Government, on behalf of the Local Government, for a loan and to receive and disburse the proceeds of any approved loan to any Local Government making application therefor;

(b) To determine the amount needed by any Local Government making application therefor to restore or resume its Governmental functions and to certify the same to the Federal Government; except that no application shall exceed Twenty-five Percent of the Annual Operating Budget of the applicant for the fiscal year in which the Major Disaster occurs; and

(c). To recommend to the Federal Government, based upon the Governor's review, the cancellation of all or any part of repayment when, in the first period of three full fiscal years following the Major Disaster, the revenues of the Local Government are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal character.

24-32-2508. Bar Against Suits. Except in cases of willful misconduct, gross negligence, or bad faith, any State employee or agent complying with Orders of the Governor and performing duties pursuant thereto under this Part 25 shall not be liable for death of or injury to persons or damage to property.

24-32-2509. Interstate Compacts. The Governor is authorized to enter into Interstate Compacts for prevention of disasters and carrying out the purposes of this Part 25.

PART 26  
COLORADO EMERGENCY PLANNING COMMISSION

24-32-2601. Implementation Of Title III Of Superfund Act.

(1) The General Assembly hereby finds and declares that the implementation of the Federal "Emergency Planning and Community Right-To-Know Act of 1986", 42 U.S.C. Sec. 11001 Et Seq., Title III of the Federal "Superfund Amendments and Reauthorization Act of 1986", P.L. 99-499, is a matter of statewide concern.

(2) The Department of Local Affairs is the State Agency responsible for the implementation of the Federal "Emergency Planning and Community Right-To-Know Act of 1986", 42 U.S.C. Sec. 11001 Et Seq., Title III of the Federal "Superfund Amendments and Reauthorization Act of 1986", P.L. 99-499, and regulations thereunder, as amended.

24-32-2602. Definitions. All terms used in this Part 26 shall have the same meaning as defined under the Federal "Emergency Planning and Community Right-To-Know Act of 1986", 42 U.S.C. Sec. 11001 Et Seq., P.L. 99-499, and regulations thereunder, referred to in this Part 26 as the "Federal Act".

24-32-2603. Colorado Emergency Planning Commission - Creation - Duties.

(1)(a) There is hereby created in the Department of Local Affairs the Colorado Emergency Planning Commission, which shall exercise its powers and perform its duties and functions under the Department of Local Affairs as if the same were transferred to the Department by a Type 2 transfer. The Commission shall consist of Eleven Members. Four of the Eleven Members shall be the following representatives of State Government or their designees: the Director of the Division of Fire Safety in the Department of Public Safety, the Director of the Division of Local Government in the Department of Local Affairs, the Director of the Office of Emergency Management in the Division of Local Government in the Department of Local Affairs, who shall be a CoChairperson, and the Director of the Division in the Department of Health responsible for Hazardous Materials and Waste Management, who shall also be a CoChairperson. The remaining Seven Members of the Commission shall be appointed by the Governor for Two-Year Terms. Of those Seven Members, Two shall represent Local Governments, Two shall be from either public interest groups or community groups, One shall represent a Local Emergency Planning Committee, and Two shall represent affected industries. The Governor shall fill any vacancy by appointment.

(b) The Members of the Colorado Emergency Planning Commission, as such existed prior to the effective date of this Act, shall become the initial Members of the Commission on the effective date of this Act.

(2) Members of the Commission shall receive no compensation or per diem for their services on the Commission; except that Members may be reimbursed for travel expenses incurred in connection with activities other than attending meetings of the Commission.

(3) The Commission shall also assist in the appropriate training of personnel to react to emergency response situations.

24-32-2604. Local Emergency Planning Committees - Creation And Duties.

(1) The Commission shall designate Local Emergency Planning Districts to develop emergency response and preparedness capabilities in accordance with the Federal Act. The boundaries of such Districts shall be the same as the boundaries of either a County, Municipality, or a combination thereof.

(2) Upon the request of the Commission, the primary governing body having jurisdiction over the Local Emergency Planning District, the County Commissioners, or the City Council, as the case may be, shall provide nominations for membership on the Local Emergency Planning Committee. The Commission shall appoint members of a Local Emergency Planning Committee for each Emergency Planning District in accordance with the Federal Act. For Local Emergency Planning Districts for which no nominations have been submitted by the governing body, the Commission may designate either the County Commissioners or City Council, as the case may be, to serve as the Local Emergency Planning Committee.

(3) Local Emergency Planning Committees shall perform the duties described under the Federal Act.

24-32-2605. Immunity.

(1) No State Commission or Agency or County or Municipal Agency, including Local Emergency Planning Committees, Fire Protection Districts, Volunteer Fire, Ambulance, or Emergency Service Groups, nor their officers, officials, directors, employees, or volunteers, when engaged in emergency service or response activities involving a hazardous material release at a facility or transportation accident site, shall be liable for the death of or injury to persons or loss or damage to property or the environment resulting from that hazardous material release, except for acts or omissions which constitute willful misconduct.

(2) No Member of the Commission or any Local Emergency Planning Committee shall be liable for the death of or any injury to persons or loss or damage to property or the environment or any civil damages resulting from any act or omission arising out of the performance of the functions, duties, and responsibilities of the Commission or Local Emergency Planning Committee, except for acts or omissions which constitute willful misconduct.

(3) Nothing in this Section shall be construed to abrogate or limit the immunity or exemption from civil liability of any agency, entity, or person under any Statute including the “Colorado Governmental Immunity Act”, Article 10 of this Title, or Section 13-21-108.5, C.R.S.

SECTION 6. 15-10-106.5 (1), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

15-10-106.5. Petition To Determine Cause And Date Of Death Resulting From Disaster - Body Unidentifiable Or Missing.

(1) When the occurrence of a Disaster has been declared by Proclamation of the Governor under Section 24-32-2104, C.R.S., and it appears that a person has died as a direct result thereof but his remains have disappeared or are unidentifiable, the Coroner, Sheriff, or District Attorney for the County in which such Disaster or any part thereof has occurred, or the spouse, next of kin, heir at law, devisee, or personal representative named in a will, or a creditor or debtor of such person may file in the District Court of such County or the Probate Court, if occurring in the City and County of Denver, a petition asking that the Court determine the cause and date of death of such person.

SECTION 7. 23-30-303, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

23-30-303. Funds Available. The Governor’s Emergency Fund, or other funds available to the Colorado State Forest Service, may be used for the purpose of preventing and suppressing forest fires, in accordance with the provisions of Part 21 of Article 32 of Title 24, C.R.S.



SECTION 8. 24-33.5-103 (2) (e), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-33.5-103. Department Created - Divisions.

(2) The Department shall consist of the following Divisions:

(e) deleted

SECTION 9. 25-3.5-104 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-3.5-104. State Advisory Council - Duties.

(1) There is hereby created, in the Department of Health, a State Advisory Council on Emergency Medical Services, referred to in this Article as the "Council", to be composed of Seventeen Members appointed by the Governor, at least One of whom shall be from each of the Planning and Management Regions established by Executive Proclamation. Of the Seventeen Members of the Council, One shall be a medical doctor actively involved in emergency medical services, One shall be a registered professional nurse actively involved in emergency medical services, One shall be a hospital administrator, One shall represent volunteer ambulance services, One shall represent ambulance services with full-time, paid personnel, One shall represent rescue units, One shall be a fire chief involved in emergency medical services, and Six shall be consumers, representative of the public at large, One of whom shall be from each Congressional District. A vacancy on the Council occurs whenever a consumer member moves out of the Congressional District from which he was appointed. A consumer member who moves out of such Congressional District shall promptly notify the Governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The Governor shall fill the vacancy as provided in Subsection (2) of this Section. Not more than Nine Members of the Council shall be members of the same major political party. Appointments made to take effect on January 1, 1983, shall be made in accordance with Section 24-1-135, C.R.S. Ex officio members, who shall have no vote, shall be the Director of the Office of Emergency Management in the Division of Local Government in the Department of Local Affairs, the Vice-President of the University of Colorado Medical Center, the Executive Director of the Department of Health, and the Director of the Office of Transportation Safety in the Department of Transportation, or their respective designees.

SECTION 10. 26-1-120 (7), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-2-120. Merit System.

(7) The Merit System Council, as provided in Section 24-32-2115, C.R.S., shall provide services described in the Section to Civil Defense Employees of the Political Subdivisions of the State, except where such employees are covered by another federally approved merit system.

SECTION 11. 43-4-201 (3) (a) (II) (H) and (3) (a) (II) (I), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended, and the said 43-4-201 (3) (a) (II) is further amended by the addition of a new Sub-subparagraph, to read:

43-4-201. Funds Created.

(3) (a) (II) The General Assembly shall not make any annual appropriation or statutory distribution from the Highway Users Tax Fund except as follows:

(H) To the Highway Crossing Protection Fund;

(I) To the Department of Personnel for costs related to the salaries and benefits of the departments or programs listed in Sub-subparagraphs (A) to (G) of this Subparagraph (II); and

(J) To the Department of Local Affairs for the provision of Disaster Emergency Services that relate to the transportation of hazardous materials.

SECTION 12. 43-6-107 (3) (b), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

43-6-107. Hazardous Materials Safety Fund.

(3) (b) At the end of Fiscal Year 1989-90, the first Forty-two Thousand Two Hundred Dollars of any moneys remaining in the fund shall, notwithstanding the provisions of Paragraph (a) of this Subsection (3), be available for appropriation by the General Assembly to the Department of Public Safety for allocation to the Colorado Emergency Planning Commission created in Section 24-32-2603, C.R.S., for the purpose of conducting an assessment of available resources described in Section 24-32-2603, C.R.S., and for personnel to staff the Colorado Emergency Planning Commission and assist the Local Emergency Planning Committees on the implementation of Title III of the "Superfund Amendments and Reauthorization Act of 1986". Any moneys remaining after such appropriation shall be available for

distribution in accordance with Paragraph (a) of this Subsection (3).

SECTION 13. Part XVIII (4) and the affected totals of Part XVIII of Section 2 of Chapter 329, Session Laws of Colorado, are amended to read:

SECTION 2. Appropriation.

PART XVIII  
DEPARTMENT OF PUBLIC SAFETY

APPROPRIATION FROM

	ITEM & SUBTOTAL \$	TOTAL \$	GENERAL FUND \$	CASH FUNDS \$	FEDERAL FUNDS \$
(4) DISASTER EMERGENCY SERVICES					
Personal Services	436,660		166,830 (6.0 FTE)		269,830 (6.0 FTE)
Operating Expenses	19,896		7,448		12,448
Utilities	12,540		6,270		6,270
Vehicle Lease Payments	5,972		5,972		
Indirect Cost Assessment	88,308			3,258 <sup>a</sup> /	85,050
Federal Contracts	2,500,000				2,500,000 (17.0 FTE)
Supplies and Materials for the Emergency Operations Center	15,000		15,000		
Activation of the Emergency Operations Center	2,000		2,000		

Inmate Labor	3,132		3,132		
		<u>APPROPRIATION FROM</u>			
	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	CASH FUNDS	FEDERAL FUNDS
	\$	\$	\$	\$	\$
Hazardous Materials Incident Coordination	41,060			20,530 <u>b/</u> (0.5 FTE)	20,530 (0.5 FTE)
Title III Training	102,200			62,200 <u>c/</u> (0.4 FTE)	40,000
Rock Flats Planning	100,000			100,000(T) <u>d/</u>	
		3,326,768			
<u>a/ Of this amount, \$1,810 shall be from the Highway Users Tax Fund, and \$1,448 shall be from various cash sources.</u>					
<u>b/ This amount shall be from the Highway Users Tax Fund.</u>					
<u>c/ This amount shall be from training fees.</u>					
<u>d/ This amount shall be from the Department of Health.</u>					
TOTALS PART XVIII (PUBLIC SAFETY)		<u>\$ 85,982,871</u>	<u>\$ 28,885,190</u>	<u>\$ 45,499,713</u> <u>a/</u>	<u>\$ 11,597,968</u>

a/ Of this amount, \$3,872,622 contains a (T) notation, and \$38,377,552 is from the Highway Users Tax Fund pursuant to Section 43-4-201 (3) (a), C.R.S.

SECTION 14. Repeal. Parts 7, 8, 9, 10, 11, and 15 of Article 33.5 of Title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, are repealed.

SECTION 15. Safety Clause. The General Assembly hereby finds, determines, and declares that this Act is necessary for the immediate preservation of the public peace, health, and safety.